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SB

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(4) "occupation" includes an industry, trade, business, or any employment or class of employment in the industry, trade, business or branch;
(am § 34 ch 127 SLA 1974)

Effect of amendment. — The 1974 amendment deleted "or branch of industry, trade, business or branch" following "industry, trade, business" near the beginning of paragraph (4).

As the rest of the section was not affected by the amendment, it is not set out.

Legislative committee report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Activities listed in paragraph (4) not exhaustive. — The definition of "occupation" in paragraph (4) does not

state that only working in an industry, trade or business constitutes an occupation, but merely indicates that among the activities which constitute an occupation are those in an industry, trade or business. *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

The University of Alaska is in fact a "business" within the definition of occupation in paragraph (4). *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Article 7. Employment of Children.

Section
332. Authorization for children under 17 to work
340. Children under 16
345. [Repealed]

Section
350. Employment of children under 18
355. Persons under 19
360. Regulations for minimum standards and work opportunities

Sec. 23.10.332. Authorization for children under 17 to work. Except for employment exempted under § 330 of this chapter and other employment specifically exempted by regulations adopted by the department, no minor under 17 years of age may be employed or allowed to work without the written authorization of the commissioner unless authorized under § 360 of this chapter. The department shall adopt regulations necessary to implement this section. (§ 3 ch 112 SLA 1976)

Effective date. — Section 8, ch. 112, SLA 1976, makes this section effective June 4, 1976, in accordance with AS 01.10.070(c).

Sec. 23.10.340. Children under 16.
(b) Repealed by § 7 ch 112 SLA 1976.
(am § 7 ch 112 SLA 1976)

Effect of amendment. — The 1976 amendment, effective June 4, 1976, repealed subsection (b), which read "No minor under 16 years of age may be

employed or allowed to work in a restaurant."

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 23.10.345. Exemptions for minors over 16 or who have graduated from high school.

Repealed by § 7 ch 112 SLA 1976, effective June 4, 1976.

10.165

§ 23.10.170 LABOR AND WORKMEN'S COMPENSATION § 23.10.185

155—185 of this chapter, the department may take an assignment of the wage claim in trust for her and may bring any legal action necessary to collect the claim, including the liquidated damages provided by this section.

(c) The court in the action shall, in addition to a judgment awarded to the plaintiff, allow a reasonable attorney fee to be paid by the defendant, and costs. The department may not be required to pay the filing fee or other cost in the action under this section; the fees and costs shall be advanced by the person seeking a remedy by legal action. The department may join various claimants against the same employer in one cause of action. The attorney general may prosecute all civil cases arising under §§ 155—185 of this chapter which are referred to him by the department for that purpose. (§ 4 ch 29 SLA 1949)

Sec. 23.10.170. Records and reports. An employer of women shall make, keep, and maintain the records of the wages and wage rates, job classifications, and other terms and conditions of employment of the persons employed by him, and shall preserve the records for the periods of time, and shall make the reports from them which the department prescribes. (§ 5 ch 29 SLA 1949)

Sec. 23.10.175. Retaliation by employer. No employer may, for the purpose of dissuading an employee from preferring charges or giving information against him under §§ 155—185 of this chapter or testifying against him in an action brought under these sections, threaten termination of the employee's job or other retaliatory action, or take retaliatory action. (§ 6 ch 29 SLA 1949)

Sec. 23.10.180. Criminal penalties. In addition to his civil liability under § 165 of this chapter, a person who wilfully and knowingly violates a provision of §§ 155—185 of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500. (§ 7 ch 29 SLA 1949)

Am. Jur. reference.—81 Am. Jur., Labor, § 178.

Sec. 23.10.185. Definitions. In §§ 155—185 of this chapter

- (1) "employ" includes to suffer or permit to work;
- (2) "employee" means a female individual employed by an employer;
- (3) "employer" includes a person acting directly or indirectly in the interest of an employer in relation to an employee;
- (4) "occupation" includes an industry, trade, business or branch of industry, trade, business or branch, or any employment or class of employment in the industry, trade, business or branch;
- (5) "wage rates" includes accommodations for board, room and other advantages when they are furnished for the convenience of the employer. (§ 2 ch 29 SLA 1949)

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Article 5. Discrimination in Employment.

| | |
|---------------------------|--------------------------------|
| Section 190 [Repealed] | Section 195—235. [Repealed] |
|---------------------------|--------------------------------|

192. Discrimination prohibited

Sec. 23.10.190. Discrimination prohibited.

Repealed by § 8 ch 117 SLA 1965.

Editor's note.—The repealed section derived from § 1, ch. 18, SLA 1953; § 1, ch. 114, SLA 1957.

Sec. 23.10.192. Discrimination prohibited. Discrimination in the employment of a person because of race, religion, color, national origin or age is prohibited as set out in AS 18.80.220. (§ 7 ch 117 SLA 1965)

Am. Jur. reference.—31 Am. Jur., Labor, §§ 8, 12.

Sec. 23.10.195. Civil right.

Repealed by § 8 ch 117 SLA 1965.

Editor's note.—The repealed section derived from § 2, ch. 18, SLA 1953.

Sec. 23.10.200. Unlawful labor practices.

Repealed by § 8 ch 117 SLA 1965.

Editor's note.—The repealed section derived from § 4, ch. 18, SLA 1953.

Sec. 23.10.205. Filing complaint.

Repealed by § 8 ch 117 SLA 1965.

Editor's note.—The repealed section derived from § 5, ch. 18, SLA 1953.

Sec. 23.10.210. Investigation and conciliation.

Repealed by § 8 ch 117 SLA 1965.

Editor's note.—The repealed section derived from § 6, ch. 18, SLA 1953.

Sec. 23.10.215. Hearing on complaint.

Repealed by § 8 ch 117 SLA 1965.

Editor's note.—The repealed section derived from § 6, ch. 18, SLA 1953.

Sec. 23.10.220. Enforcement of order.

Repealed by § 8 ch 117 SLA 1965.

Editor's note.—The repealed section derived from § 7, ch. 18, SLA 1953.

Sec. 23.10.225. Appeal from order.

Repealed by § 8 ch 117 SLA 1965.

Editor's note.—The repealed section derived from §§ 8, 9, ch. 18, SLA 1953.

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

AND

THE ANCHORAGE EQUAL RIGHTS COMMISSION

I. PURPOSE

The purpose of this memorandum of understanding is to provide for efficient coordination and cooperation in the handling of discrimination complaints pursuant to AS 18.80.010 et seq., and Title 5 of the Anchorage Municipal Code (AMC).

II. LEGAL AUTHORITY

- A. The Alaska State Commission for Human Rights (ASCHR) is responsible for the administration and enforcement of the provisions of the Alaska Human Rights Law (AS 18.80.010 et seq.). That law prohibits discriminatory practices in employment, public accommodations, sale or rental of real property, financing practices, and practices of the State of Alaska or its political subdivisions, on the basis of race, religion, color, national origin, age, sex, marital status, changes in marital status, pregnancy, or parenthood. Said law further prohibits discrimination in employment on the basis of physical handicaps.
- B. The Anchorage Equal Rights Commission (AERC) is responsible for the administration and enforcement of the Anchorage Equal Rights Ordinance (AMC 5.10.010 et seq.). That ordinance prohibits discriminatory practices in employment, housing, public accommodations, education, financing practices, and practices of the Municipality of Anchorage, on the basis of race, color, sex (including pregnancy and parenthood), religion, national origin, marital status, age, or physical handicap.

III. FILING COMPLAINTS OF DISCRIMINATION

- A. In order to facilitate the goals of the laws cited herein, ASCHR and AERC each designate the other as its agent for the purpose of receiving discrimination complaints.
- B. Each agency will inform complainants of their right to file with the other agency, and will endeavor to aid any person alleging discrimination to draft a charge in a manner which meets the requirements of the other agency.
- C. Each agency will forward all appropriate complaints to the other agency within 48 hours of filing or as soon thereafter as is practicable.

- D. The delegation of authority to receive complaints contained in paragraph III. A. does not include the right of one agency to determine the jurisdiction of the other agency over a complaint.

IV. DIVISION OF INITIAL COMPLAINT PROCESSING RESPONSIBILITIES

- A. Because of the need to meet the demand for services with the limited resources available, both agencies have concluded that the intent of the laws they administer can be served best by reducing duplication of effort through a division of primary responsibility for the resolution of complaints.
- B. AERC will initially process all complaints except those for which responsibility is assigned to ASCHR in paragraph IV. C. below.
- C. ASCHR will initially process the following categories of complaints:
1. All complaints which are filed more than 120 days after the occurrence of the alleged discriminatory conduct;
 2. All complaints alleging discriminatory conduct within the State of Alaska, but not within the Municipality of Anchorage;
 3. All complaints in which an agency of the State of Alaska is a party;
 4. All complaints against respondents which may be designated for initial processing by ASCHR in a supplementary memorandum to this memorandum of understanding;
 5. All complaints filed by the Executive Director of ASCHR and related individual charges;
 6. Any complaint where ASCHR is a party to a conciliation agreement or a consent decree which is relevant to the disposition of the complaint; and
 7. Any complaint alleging retaliation for filing a complaint with ASCHR or for cooperating with ASCHR.
- D. Notwithstanding the provisions of paragraphs IV. B. and C., ASCHR or AERC may request and be granted the right to initially process any complaint. Such variations shall be consistent with the objectives of this memorandum of understanding.
- E. If for any reason either agency determines it cannot process a complaint for which it bears initial responsibility pursuant to this agreement, that agency will inform the other agency of its inability to process the complaint as soon as is practicable after the complaint is filed.
- F. ASCHR and AERC will implement their division of initial complaint processing responsibilities with due regard to the agency preferences of complainants.

V. RESOLUTION OF COMPLAINTS

- A. In order to expedite the resolution of a complaint initially processed by one agency, that agency will made available upon request by the other agency any information developed concerning the complaint that may be disclosed pursuant to applicable law. The agency accepting information will comply with any confidentiality requirements imposed on the agency forwarding the information.
- B. Each agency will provide the other with notice of all final actions taken with respect to complaints filed with both agencies under this agreement, and copies of all determinations made with respect to the merits of such complaints.
- C. When one agency does not concur with the result reached by the other agency, the former agency will inform the latter agency of the reasons for its nonconcurrence.
- D. In determining whether reasonable cause exists to believe that unlawful discrimination has occurred, each agency will, subject to applicable law, accord substantial weight to the findings and orders of the agency having initial responsibility for the resolution of the complaint. Similarly, each agency will, subject to applicable law, accord substantial weight to resolutions by the other agency, including monetary settlements, which occur prior to a determination on the merits of a complaint.
- E. In the event that a case originally filed with ASCHR is initially investigated by AERC, and AERC determines that there is reasonable cause to credit the allegations of the complaint, AERC will promptly notify ASCHR of the status of the case, and in the discretion of AERC, it will request ASCHR to take any and all actions necessary to resolve the dispute, including the convening of a public hearing. AERC will then defer further action on the dispute until such time as ASCHR has concluded its proceedings.

VI. IMPLEMENTATION OF WORKSHARING

- A. Each agency will designate one person as a liaison official for interagency contacts concerning day-to-day operations pursuant to this memorandum.
- B. The agencies will monitor the allocation of complaint processing responsibilities to insure that they serve the purposes of paragraph IV. A. If it appears that a realistic division of complaint processing responsibilities will not be met by the assignments in paragraphs IV. B., IV. C., and V. E., said paragraphs will be modified to facilitate a practicable division of responsibilities and rapid resolution of complaints.
- C. AERC and ASCHR will confer periodically during the operation of this agreement to ensure that open cases on file with either agency are receiving expeditious

processing. It is anticipated that one agency or the other may at times be better equipped for various reasons to give more prompt attention to any given case or group of cases. In such circumstances, the agencies may mutually agree to transfer principal processing responsibility from one agency to the other, notwithstanding any initial responsibilities established by this agreement.

- D. ASCHR and AERC will support each other in all reasonable efforts to secure sufficient funding to effectively enforce the applicable state and local civil rights laws.
- E. This agreement shall become effective on the first day of May, 1980, and will remain in effect until the last day of April, 1981. Thereafter, it may be renewed with or without amendment by mutual consent of the parties.

DATED at Anchorage, Alaska, this 25th day of April, 1980.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

ANCHORAGE EQUAL RIGHTS
COMMISSION

By _____

By _____

SB

28

Senate Bill NO. 28 Senator Ray: An Act Relating To Criminal Mischief; and
Providing for an Effectivew date.

Section 1. AS 11.46.484 (a) is amended by adding a new paragraph which charges a person with "criminal mischief in the third degree if he tampers with a fire protection or other safty device in a building which is a public place.

AS 11. 46 484, which is part of the new criminal code, effective January 1, 1980, is entitled "Criminal Mischief in the Third Degree", and (a) states "a person commits the crime of criminal mischief in the third degree if, having nc right to do so or any reasonable ground to believe he has such a right.

- (1) with intent to damage property of another, he damages property of another in an amount of \$50 or more, but less than \$500;
- (2) he drives, tows away, or takes the propelled vehicle of another; or
- (3) having custody of a propelled vehicle under written agreement with the owner of the vehicle by which he has agreed to return the vehicle to the owner at a specified time, he knowingly retains or withholds possession of the vehicle without the consent of the woner for so long a period beyond the time specified as to render the retention or possession of the vehicle an unreasonable deviation from the agreement.

PERSONS WHO SHOULD TESTIFY

Senator Ray
A representative from Dept. of Public Safety and/or Fire Marshalls' office.

SB

42

COMMITTEE REPORT

HOUSE

(9)

FURTHER:

5/23/80

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had CSSB 42

"An Act relating to the termination of rental agreements of mobile home park dwellers and tenants "

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN



JUNEAU ALASKA

Alaska State Legislature
House

TO: Legislative Affairs Agency

From: Margaret W. Berck, Staff

DATE: June 3, 1980

Please prepare a House Judiciary Committee CS for SB 42 that incorporates the Committee's intent as expressed in the attached mark up. Please put this CS in final version form.

SB

51

STATE OF ALASKA DEPARTMENT OF FISH AND GAME

INTENT TO OPERATE 1979

I. COMPANY NAME AND ADDRESS:

If your address as listed is in error or missing, please print or type the correct company name and address below.

II. GENERAL INFORMATION: Check the following type of operation for which you are filing this Intent to Operate form. Only one type of operation should be indicated. If you have more than one plant or buying location at which different species of fish or shellfish are bought and/or processed, additional forms must be filed, one for each location. Additional forms can be obtained by contacting the nearest Department of Fish and Game office.

THIS OPERATION IS: (check one only)

- | | |
|--|--|
| <input type="checkbox"/> Shore Base Buyer (only) | <input type="checkbox"/> Shore Based Cannery |
| <input type="checkbox"/> Floating Cannery* | <input type="checkbox"/> Fresh Processor |
| <input type="checkbox"/> Freezer Ship* | <input type="checkbox"/> Floating/Flying/Buyer* |
| <input type="checkbox"/> Shore Based Fresh, Frozen, or Cured Processor | <input type="checkbox"/> Combination Cannery and Fresh, Frozen, or Cured Processor |

*If this is a floating operation, the following vessel information must be included. An Intent to Operate form must be filed for each vessel that buys or processes fishery resources.

Vessel Name: _____

Keel Length: _____ Net Tonnage: _____

Intended area(s) of operation are: (i.e.: Southeastern, Bristol Bay, Kodiak, Chignik, Cook Inlet, etc.): _____

Home Port: _____

If this form is for a shore based operation, please give the location of the plant or buying station:

If any aircraft will be used in transporting raw or finished fishery products, please give the anticipated total number and types of aircraft that will be used:

The Department receives many requests to publish a list of Alaskan commercial processors and/or buyers. Would you like your firm included in such a list? Yes No

III. SPECIES/PRODUCT INFORMATION; Please indicate what type of operation is involved in your processing of each of the species. For example, if you buy and freeze and smoke king salmon, your form should look like this:

| Salmon: | Buyer | Cannery | Fresh | Frozen | Cured (specify method) | |
|---------|----------|---------------|---------------|----------|------------------------|---------------|
| King | <u>X</u> | <u> </u> | <u> </u> | <u>X</u> | <u>X</u> | <u>smoked</u> |

| <u>SPECIES</u> | <u>TYPE OF OPERATION(S)</u> | | | | | |
|--------------------------|-----------------------------|---------------|---------------|---------------|------------------------|---------------|
| Salmon: | Buyer | Cannery | Fresh | Frozen | Cured (specify method) | |
| King | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Red | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Cocho | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Pink | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Chum | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Roe | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Shellfish: | | | | | | |
| King crab | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Dungeness | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Tanner | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Shrimp | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Scallops | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Other(specify): | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Miscellaneous: | | | | | | |
| Bait Herring | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Food Herring | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Sac Roe Herring | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Herring Roe | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| On Kelp | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Halibut | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Sablefish (Black Cod) | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Pacific Cod | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Other Fish (specify): | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |

PLEASE RESPOND TO THE FOLLOWING QUESTIONS IN AS COMPLETE A MANNER AS POSSIBLE.

1. List the quantity and location of all your fish ticket imprinting machines.

Number

Location

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

2. Is your company name presently embossed on a plate for your machines? If so, please print company name and any other data on your present plates.

Plate embossed now?:

Information embossed on plates:

_____ Yes

_____ No

| |
|-------|
| _____ |
| _____ |
| _____ |

3. If you do not ordinarily file an Annual Report, please list the name(s) and location(s) of the company(s) whose Annual Report(s) will include your catch information.

Company

Location

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Name and title of person filling out this form: (Please print or type)

Name: _____

Signature: _____

Title: _____

Phone: _____

CONFIDENTIAL

ALASKA COMMERCIAL OPERATORS
1978 ANNUAL REPORT

FORM A - (Catch and Production Performed by Your
Company, Exclusively for Your Company)

FORM A - This report should represent catch and production for only your company. Form A should be completed for each plant location. DO NOT include joint or custom production performed by you or for you in this report. Form B will be used to list all joint or custom production which was performed for your company by another company.

COMPANY NAME AND ADDRESS:

If it is in error or missing, please print or
type the correct company name and address below:

DID YOU PROCESS/BUY FISH IN 1978? _____ YES _____ NO

(If you checked YES, please complete the rest of this report. If you checked NO, please return only pages 1 and 9.)

I. TYPE OF OPERATION THIS REPORT COVERS (Check only one)

- | | |
|---|------------------------------|
| _____ Shore Based Buyer Only | _____ Fresh Processor |
| _____ Floating or Flying Buyer Only | _____ Shore Based Cannery |
| _____ Freezer Ship | _____ Freezer Ship |
| _____ Combination Cannery, Fresh, Frozen and Cured | _____ Other (describe) _____ |
-

II. PLANT OR BUYING STATION INFORMATION: (Remember a separate report must be filed for each plant or buying location)

If this form is for a shore based operation, please give the location of the plant or buying station:

Please give the number of employees at a season peak: _____

III. AIRCRAFT INFORMATION:

If any aircraft were used in transporting raw or processed fishery products, please give the total number and types of aircraft that were used.

IV. VESSEL INFORMATION: (Only if this report is for a floating operation)

An Annual Report Form must be filed for each vessel that processes fishery resources, and for each area in which the vessel operated, e.g. if the vessel operated in the Kodiak area for part of the season and moved to the Bering Sea area, you must file separate reports for those operations.

Vessel Name _____

Keel Length _____ Net Tonnage _____

Number of employees at season peak (crew) _____

Area(s) of operation were: (i.e. Southeastern, Bristol Bay, Kodiak, Chignik, etc.)

Home Port: _____

V. PRICE PAID TO FISHERMEN IN 1978:

If you purchased any raw fishery product you must complete this section.

Indicate the total amount paid to the fisherman, in dollars, including the value of any bonuses (e.g. cash, ice, fuel, groceries and so forth). Also indicate the total number of pounds purchased. The dollar value of any bonuses, if any, (not including the price paid for the fish alone), should be indicated separately in the space on the far right.

Salmon: The information for all species of salmon must be given by gear type. Please be careful to indicate your purchases under the proper gear.

| <u>Gear/Species</u> | <u>Total \$ Paid (including bonus)</u> | <u>Total Pounds Purchased</u> | <u>Total \$ Bonus</u> |
|---------------------|--|-------------------------------|-----------------------|
| <u>Troll:</u> | | | |
| Kings | \$ _____ | lbs. _____ | \$ _____ |
| Reds | _____ | _____ | _____ |
| Coho | _____ | _____ | _____ |
| Pinks | _____ | _____ | _____ |
| Chums | _____ | _____ | _____ |
| <u>Gillnet:</u> | | | |
| Kings | \$ _____ | lbs. _____ | \$ _____ |
| Reds | _____ | _____ | _____ |
| Coho | _____ | _____ | _____ |
| Pinks | _____ | _____ | _____ |
| Chums | _____ | _____ | _____ |
| <u>Seine:</u> | | | |
| Kings | \$ _____ | lbs. _____ | \$ _____ |
| Reds | _____ | _____ | _____ |
| Coho | _____ | _____ | _____ |
| Pinks | _____ | _____ | _____ |
| Chums | _____ | _____ | _____ |

SALMON EGGS/ROE: (give total dollars paid and total poundage only)

\$ _____ lbs. _____

V. PRICE PAID TO FISHERMEN (Continued)

SHELLFISH:

(Give total dollars paid (including bonus), total poundage purchased, and total bonus by species.)

| <u>Species</u> | <u>Total \$ Paid (Including bonus)</u> | <u>Total Pounds Purchased</u> | <u>Total \$ Bonus</u> |
|--|--|-------------------------------|-----------------------|
| King Crab | \$ _____ | lbs. _____ | \$ _____ |
| Dungeness | _____ | _____ | _____ |
| Tanner Crab | _____ | _____ | _____ |
| Small Shrimp | _____ | _____ | _____ |
| Large Shrimp (spots, sidestripes, etc.) | _____ | _____ | _____ |
| Scallops | _____ | _____ | _____ |
| Other: (specify) | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

MISCELLANEOUS FISH:

| <u>Species</u> | <u>Total \$ Paid (including bonus)</u> | <u>Total Pounds Purchased</u> | <u>Total \$ Bonus</u> |
|------------------------|--|-------------------------------|-----------------------|
| Sac Roe Herring | \$ _____ | lbs. _____ | \$ _____ |
| Bait Herring | _____ | _____ | _____ |
| Food Herring | _____ | _____ | _____ |
| Herring Roe on Kelp | _____ | _____ | _____ |
| Halibut | _____ | _____ | _____ |
| Sheefish | _____ | _____ | _____ |
| Sablefish (Black Cod) | _____ | _____ | _____ |
| Pacific Cod (Grey Cod) | _____ | _____ | _____ |
| Other: (Specify) | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

VI. FRESH/FROZEN PRODUCTION: Salmon and Miscellaneous Fish

Fresh/frozen production is only that quantity of raw fishery products that were sold or held for the fresh/frozen market, NOT those fish that were frozen and then later canned, cured, etc.

| <u>Species</u> | <u>Fresh or Frozen (specify)</u> | <u>Total Net Weight</u> | <u>Total Wholesale Value</u> |
|------------------------|----------------------------------|-------------------------|------------------------------|
| Kings | _____ | lbs. _____ | \$ _____ |
| Reds | _____ | _____ | _____ |
| Cohos | _____ | _____ | _____ |
| Pinks | _____ | _____ | _____ |
| Chums | _____ | _____ | _____ |
| Salmon Eggs/Roe | _____ | _____ | _____ |
| Herring (Bait) | _____ | _____ | _____ |
| Herring Fillets | _____ | _____ | _____ |
| Herring Sac Roe | _____ | _____ | _____ |
| Herring Roe on Kelp | _____ | _____ | _____ |
| Halibut | _____ | _____ | _____ |
| Sablefish (Black Cod) | _____ | _____ | _____ |
| Pacific Cod (Grey Cod) | _____ | _____ | _____ |
| Ling Cod | _____ | _____ | _____ |
| Smelt | _____ | _____ | _____ |
| Sheefish | _____ | _____ | _____ |
| Whitefish | _____ | _____ | _____ |
| Other Fish (specify) | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

VI. FRESH/FROZEN PRODUCTION (continued): Shellfish

| <u>Species</u> | <u>Fresh or Frozen (specify)</u> | <u>Total Net Weight</u> | <u>Total Wholesale Value</u> |
|--------------------------|----------------------------------|-------------------------|------------------------------|
| King Crab/Whole | _____ | lbs. _____ | \$ _____ |
| King Crab/Sections | _____ | _____ | _____ |
| King Crab/Meat Only | _____ | _____ | _____ |
| Dungeness/Whole | _____ | _____ | _____ |
| Dungeness/Sections | _____ | _____ | _____ |
| Dungeness/Meat Only | _____ | _____ | _____ |
| Tanner/Whole | _____ | _____ | _____ |
| Tanner/Sections | _____ | _____ | _____ |
| Tanner/Meat Only | _____ | _____ | _____ |
| Scallops | _____ | _____ | _____ |
| Shrimp/Whole | _____ | _____ | _____ |
| Shrimp/Tails | _____ | _____ | _____ |
| Clams (Bait) | _____ | _____ | _____ |
| Clams (Food) | _____ | _____ | _____ |
| Abalone | _____ | _____ | _____ |
| Other Shellfish(specify) | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |

IX. JOINT OR CUSTOM PRODUCTION:

Please list the processors for whom you do joint or custom production. DO NOT include that production anywhere in this report or in the report for Form B. It will be reported by the company who is having the production done for them.

Name Of Company You Do Processing For

Location Of Company

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Comments: (Give any comments or additional information on this form)

I hereby certify that all information made on or in connection with this report is true and complete to the best of my knowledge and belief.

Signature: _____

Name & Title: (please print or type) _____

Phone: _____

Date: _____

STATE OF ALASKA

5851
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5 - JUNEAU 99611

April 25, 1979

The Honorable Bill Miles, Chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Miles:

Recently I testified to your committee about the ability of the Petroleum Revenue Division of this department to assist the Department of Natural Resources with various royalty accounting and auditing functions. At that time I spoke of our present confidentiality statutes as being a hindrance to our providing such assistance to Natural Resources, and I indicated that a proposed amendment to remedy this situation would shortly be furnished to you. I am now following up on that promise.

In our response to Legislative Audit's preliminary report on petroleum revenues, we recommended that AS 43.05.230 be amended by adding the following new subsection:

(g) Information which is received or developed by the department in administering the provisions of the oil and gas corporate income tax (AS 43.21) or the oil and gas properties production tax (AS 43.55) and which relates to the price or value of oil or gas in which the state has an interest under AS 38.05.180 or to production costs charged or chargeable against such an interest of the state, may be made available to the Department of Natural Resources for purposes of oil and gas accounting supervision. The information thus made available to the Department of Natural Resources shall be held confidential by that department the same as it is

The Honorable
Bill Miles, Chairman
House Resources Committee

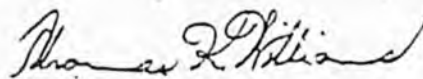
2

April 25, 1979

so held by the Department of Revenue,
except that it may be used in connection
with official investigation proceedings
relating to oil and gas royalty accounting
and supervision by the Department of Natural
Resources, whether judicial or administrative,
and except also that either department may
release or publish information that is other-
wise available from non-confidential sources.

This will take care of the confidentiality problem with respect
to inter-departmental coordination in the accounting area, and
consequently will allow the two departments to pool their resources
more efficiently in administering these most important revenue
sources.

Sincerely,



Thomas K. Williams
Commissioner

cc: The Honorable Robert E. LeResche
Commissioner of Natural Resources

Mr. Thomas Cook, Director
Division of Minerals & Energy
Management

Robert M. Maynard, Esq.
Assistant Attorney General
Department of Law

551

CSSB51

January 15, 1979

President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill relating to the confidential nature of certain reports required by regulations of the Department of Fish and Game.

This bill would amend the existing law regarding confidentiality of statistics in response to several concerns.

First, a defect in language in the present law, while prohibiting the Department of Fish and Game from releasing confidential materials to the public absent a court order, does not proscribe the other agencies who have access to these materials from releasing them. This must be corrected to fully implement legislative intent.

Second, it would appear advisable to extend access rights to the Department of Public Safety in consideration of that department's enforcement responsibilities.

Third, the newly created North Pacific Fisheries Management Council (operating under the Federal Fishery Conservation and Management Act of 1976) and the National Marine Fisheries Service of the United States Department of Commerce should have the benefit of the information protected by this section in conjunction with the development of management plans and proposed regulations governing offshore fisheries adjacent to Alaska. The University of Alaska and the Department of Commerce and Economic Development also perform functions which would be enhanced by the information contained in these materials. While we have proposed to grant them certain access rights, all four of them would be limited to research and statistics projects.

This bill has a provision authorizing release, without a court order, of confidential catch reports (usually "fish tickets") to the individual gear operator whose catch is the subject of the report; and (2) a provision clarifying

that the court order required for some releases of the confidential reports must be signed by a superior court judge not just a court clerk who signs subpoenas.

Inasmuch as this amendment constitutes an expansion of the potential recipients of confidential statistics, we are also proposing that the authority and discretion of the commissioner of fish and game regarding release be considerably strengthened in order to insure that confidentiality is in fact maintained. This would include the ability to refuse to release materials or to condition or limit the release in order to carry out the intent of this section.

Sincerely,

5/98H

Jay S. Hammond
Governor

STATE OF ALASKA

5651
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

December 26, 1978

M E M O R A N D U M

TO: The Honorable Jay S. Hammond
Governor

FROM: Avrum M. Gross
Attorney General

RE: Attached revised bill re confidential nature of
certain reports required by the Department of
Fish & Game
Our File No.: J-77-094-79

Attached is a revised version of the bill sent to you December 15. The sole change, made at the request of Deputy Commissioner of Fish and Game Carl Rosier, is the insertion of "Reports which do not identify individual fishermen, buyers, or processors" at the beginning of the third sentence. Carl says that this is in response to a concern expressed by the fishermen and others.

Also attached are my December cover memo to you and our original draft transmittal letter. The change in the bill does not necessitate any change in the transmittal letter.

AMG:pjg:AHP

cc w/bill: Allan Adasiak, Chairman
Commercial Fisheries Entry Commission

The Honorable Ronald O. Skoog
Commissioner
Department of Fish and Game

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

December 15, 1978

M E M O R A N D U M

TO: The Honorable Jay S. Hammond
Governor

FROM: Avrum M. Gross
Attorney General

RE: Attached bill concerning the confidential nature
of certain reports required by the Department of
Fish and Game
Our File: J-77-094-79

Attached is a bill concerning the confidential nature of certain reports required by regulations of the Department of Fish and Game. The bill was requested by the Commercial Fisheries Entry Commission after consultation with the Department of Fish and Game. It would amend existing law in response to several concerns raised by fishermen, state agencies, and others.

With two additions, the bill is identical to sec. 31 of SB 147, introduced at your request during the Tenth Legislature, which is, in turn, nearly identical to a similar section of SB 527 introduced at your request during the Ninth Legislature. These previous bills were extensive collections of housekeeping revisions to Title 16. Because of the failure of these two more comprehensive bills and because of the two new additions, a separate, much shorter bill is appropriate. The two additions are described in the attached draft transmittal letter to the legislature which explains the bill in more detail.

AMG:md:PBF

cc w/enc.: Allan Adasiak, Chairman
Commercial Fisheries Entry Commission

The Honorable Ronald O. Skoog
Commissioner
Department of Fish & Game

SB

53

January 15, 1979

President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill amending the definition of vessel in the Fish and Game Code (AS 16.05) to exclude float planes. The bill would eliminate the present requirement for commercial fishing vessel licenses for float planes used for delivering fish. The general consensus is that this requirement is unnecessary, burdensome, and unintended.

Sincerely,

S/JS

Jay S. Hammond
Governor

Article 7. General Provisions.

Section
 905. Alien activities prohibited
 910. Penalty
 920. Certain acts made unlawful

Section
 930. Exempted activities
 940. Definitions
 950. Title of the chapter

Sec. 16.05.905. Alien activities prohibited. Alien persons not lawfully admitted to the United States are prohibited from engaging in commercial fishing activities or taking marine mammals in the territorial waters of the State of Alaska as they presently exist or may be extended in the future. (§ 1 ch 85 SLA 1964)

Sec. 16.05.910. Penalty. Any alien person who violates § 905 of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a confiscation and forfeiture of the fishing vessel used in such violation, or by imprisonment of any such person for not more than one year, or by fine of not more than \$10,000, or by all or any two of the foregoing punishments. (§ 2 ch 85 SLA 1964)

Sec. 16.05.920. Certain acts made unlawful. (a) Unless permitted by this chapter or by regulation made under this chapter, it is unlawful for a person to take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game or marine aquatic plants, or any part of fish, game or aquatic plants, or a nest or egg of fish or game.

(b) No person may knowingly disturb, injure, or destroy a notice, signboard, seal, tag, aircraft, boat, vessel, automobile, paraphernalia, equipment, building or other improvement or property of the department used in the administration or enforcement of this chapter, or a poster or notice to the public concerning the provisions of this chapter, or regulation adopted under this chapter, or a marker indicating the boundary of an area closed to hunting, trapping, fishing or other special use under this chapter. No person may knowingly destroy, remove, tamper with, or imitate a seal or tag issued or used by the department or attached under its authority to a skin, portion, or specimen of fish or game, or other article for the purpose of identification or authentication in accordance with this chapter or a regulation adopted under this chapter. (§ 28 art I ch 94 SLA 1959; am § 3 ch 110 SLA 1970)

State may regulate extraterritorial fishing. — Paramount rights in the seabed and subsoil beyond the three-mile limit were vested in the federal government. However, that principle of federal exclusivity does not preclude state regulation of fishery resources in the waters over that seabed. *State v. Sieminski*,

Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

Enforcement of the state's regulatory scheme in a case involving scallop fishing activities in extraterritorial waters was within the sphere of the state's prerogative to regulate extraterritorial fishing. *State v.*

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Sieminski, Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

As to constraints on state regulation of extraterritorial fishing efforts, see State v. Sieminski, Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

Citing this section in an information instead of former AS 16.05.250 was not reversible error. — See Theodore v. State, Sup. Ct. Op. No. 305 (File No. 550), 407 P.2d 182 (1965), cert. denied, 384 U.S. 951, 86 S. Ct. 1570, 16 L. Ed. 2d 547 (1966).

Applied in Biele v. State, Sup. Ct. Op. No. 87 (File No. 152), 371 P.2d 811 (1962); Graybill v. State, Sup. Ct. Op. No. 1045 (File No. 1939), 522 P.2d 539 (1974); State v. Bundrant, Sup. Ct. Op. No. 1232 (File Nos. 2295, 2435, 2444), 546 P.2d 530 (1976); Graybill v. State, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976); Schuster v. State, Sup. Ct. Op. No. 1305 (File No. 2911), 553 P.2d 925 (1976); Nathanson v. State, Sup. Ct. Op. No. 1310 (File No. 2541), 554 P.2d 456 (1976).

Sec. 16.05.930. Exempted activities. (a) This chapter does not prevent the collection or exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit which the department may issue and prescribe the terms thereof.

(b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation promulgated by the appropriate board.

(c) Section 920 of this chapter does not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food or the raising of game birds for the purpose of recreational hunting or game hunting preserves, under regulation promulgated by the appropriate board.

(d) No nondomestic animals of any species may be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred or transported under (a) of this section shall be animals that are certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall be accompanied by a statement prepared by the Department of Fish and Game examining the probable environmental impact of the action. (§ 28 art 1 ch 94 SLA 1959; am § 1 ch 7 SLA 1972; am § 2 ch 104 SLA 1972; am § 4 ch 82 SLA 1974; am §§ 16, 17 ch 206 SLA 1975; am § 1 ch 20 SLA 1976)

Effect of amendments. — The 1974 amendment deleted "or fur purposes" following "food" near the middle of subsection (c).

The 1975 amendment inserted "appropriate" near the end of subsections (b) and (c).

The 1976 amendment added subsection (d).

Sec. 16.05.940. Definitions. In this chapter

(1) "a board" means either the Board of Fisheries or the Board of Game;

(2) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other

SLA 1959; am § 2 ch 96 SLA 1963; am § 2 ch 73 SLA 1970; am § 11 ch 105 SLA 1977)

Effect of amendment. — The 1977 amendment, effective January 1, 1978, rewrote paragraphs (1) and (2) and substituted "other than one to which a permit has been issued" for "which is not exempt" in paragraph (3).

Article 7. General Provisions.

Section

930. Exempted activities

940. Definitions

Sec. 16.05.930. Exempted activities.

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

(am § 13 ch 151 SLA 1978)

Effect of amendments.

The 1978 amendment added subsection (e).

As the rest of the section was not affected by the amendment, it is not set out.

Editor's note. — As to legislative intent, see § 1, ch. 151, SLA 1978, in the 1978

Temporary and Special Acts and Resolutions in Binder 9.

Legislative history report. — For report on ch. 151, SLA 1978 (SB 960), see 1978 House Journal, p. 1154.

Sec. 16.05.940. Definitions. In this chapter

(2) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(17) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(26) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible

by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(27) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(am § 12 ch 105 SLA 1977; am §§ 14, 15 ch 151 SLA 1978)

Effect of amendments.

The 1977 amendment, effective January 1, 1978, deleted "or to the spouse of a commercial fisherman who does not receive income separate and distinct from that of the commercial fisherman spouse as a result of the spouse's participation" following "directly or indirectly participate in the taking" in paragraph (2).

The 1978 amendment substituted "subsistence uses" for "personal use and not for sale or barter" in paragraph (17) and added paragraphs (26) and (27).

As the rest of the section was not affected by the amendments, it is not set out.

Editor's note.

As to legislative intent, see § 1, ch. 151, SLA 1978, in the 1978 Temporary and Special Acts and Resolutions in Binder 9.

Legislative history report. — For report on ch. 151, SLA 1978 (SB 960), see 1978 House Journal, p. 1154.

Chapter 10. Fisheries and Fishing Regulations.

Article 2. Fish Traps and Other Illegal Fishing Devices.

Section

130. Penalties for violation of §§ 120—125 of this chapter

Sec. 16.10.130. Penalties for violation of §§ 120—125 of this chapter. A person who violates §§ 120—125 of this chapter is guilty of a misdemeanor, and upon conviction is punishable by imprisonment for not more than six months, or by a fine of not more than \$1,000, or by both. (§ 2 ch 26 SLA 1959; am § 4 ch 103 SLA 1977)

Effect of amendment. — The 1977 amendment, effective August 1, 1978, substituted "§§ 120 — 125" for "§ 120" near the beginning of the section.

Article 7. Commercial Fishing Loan Act.

Section

310. Powers of the department
320. Limitations on loans
333. Loans for purchase of Alaska limited entry permits
335. Default and foreclosure

Section

337. Deficiencies and transfer of entry permits after foreclosure
339. Regulations
342. Special account established
360. Definitions

Sec. 16.10.310. Powers of the department. (a) The department may (1) make loans to

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fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking, or to the spouse of a commercial fisherman who does not receive income separate and distinct from that of the commercial fisherman spouse as a result of the spouse's participation; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(3) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish or other fish resources;

(4) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;

(5) "department" means the Department of Fish and Game unless specifically provided otherwise;

(6) "fish" means any species of aquatic fin fish, invertebrates and amphibians, in any stage of their life cycle, found in or introduced into the state;

(7) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water which is completely enclosed by a generally escape-proof barrier;

(8) "fur dealing" means engaging in the business of buying, selling, or trading in animal skins. The term does not apply to a hunter or trapper selling the animal skins he has legally taken, or to a person, other than a fur dealer, purchasing animal skins for his own use;

(9) "game" means any species of bird and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of this chapter;

(10) Repealed by § 2 ch 32 SLA 1968;

(11) "hunting" means the taking of game under this chapter and the rules and regulations promulgated under it;

(12) "nonresident" means a person who is not a resident;

(13) "operation"

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"resident" state; how in the sta the purpo of the mil year is a an alien b in the sta

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(13) "operator" means the individual by law made responsible for the operation of the vessel;

(14) "resident" means a person who for 12 consecutive months maintained a permanent place of abode in the state and who continually maintained his voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this chapter, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of this chapter, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purposes of this chapter;

(15) "seizure" means the actual or constructive taking or possession of real or personal property subject to seizure under this chapter by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(16) "sport fishing" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(17) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources for personal use and not for sale or barter, with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(18) "take" means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(19) "taxidermy" means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game, as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(20) "trapping" means the taking of mammals declared by regulation to be fur bearers;

(21) "vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state;

(22) "visitor" means a nonresident or alien temporarily sojourning in the state as a visitor or tourist;

(23) "aquatic plant" means any species of plant, excluding the rushes, sedges and true grasses, growing in a marine aquatic or intertidal habitat;

(24) "fish derby" means a contest in which prizes are awarded for catching fish;

(25) "fishing derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes. (§ 2 art I ch 95 SLA 1959; am §§ 1 — 4 ch 131 SLA 1960; am § 1 ch 21 SLA 1961; am §§ 1, 2 ch 102 SLA 1961; § 9 art III ch 94 SLA 1959; am § 23 ch 131 SLA 1960; am § 1 ch 160 SLA 1962; am §§ 13, 14 ch 31 SLA 1963; am § 2 ch 32 SLA 1968; am § 3 ch 73 SLA 1970; am § 1 ch 91 SLA 1970; am § 4 ch 110 SLA 1970; am § 1 ch 90 SLA 1972; am § 5 ch 82 SLA 1974; am §§ 26, 82 ch 127 SLA 1974; am §§ 18 — 20 ch 206 SLA 1975)

Effect of amendments. The first 1974 amendment deleted "fur" following "fish" near the beginning of paragraph (7).

The second 1974 amendment substituted "one year" for "three years" near the end of paragraph (14). Near the end of paragraph (2), the amendment substituted "spouse" for "wife," "the commercial fisherman spouse" for "her husband," and "the spouse's participation" for "her participation."

The 1975 amendment rewrote paragraph (1) and substituted "Board of Fisheries" for "board" at the end of paragraphs (16) and (17).

Editor's note. — Section 12, ch. 105, SLA 1977, effective January 1, 1978, amended paragraph (2) to read as follows: "(2) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes

who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;"

Legislative committee reports. — For report on ch. 32, SLA 1968 (HCSCSSB 50 am), see 1968 House Journal, p. 169. For report on ch. 127, SLA 1974 (SCSHE 817 am S), see 1974 House Journal, p. 657.

Paragraph (14) does not grant special resident privileges to military personnel. 1964 Op. Att'y Gen., No. 2.

For construction of "commercial fisherman" under former law, see *Martinsen v Mullaney*, 12 Alas. 455, 85 F. Supp. 76 (D. Alas. 1949).

Sec. 16.05.950. Title of the chapter. This chapter may be cited as the Fish and Game Code. (§ 1 art I ch 94 SLA 1959)

Chapter supersedes federal law. — When the various articles of the state law providing for the administration, management and conservation of fish and wildlife became effective, acts of Congress on the same subject were no longer of any force. *Metlakatla Indian Community, Annette Island Reserve v. Egan*, Sup. Ct. Op. No. 42 (File Nos. 21 — 23), 362 P.2d 901 (1961), vacated and remanded on other grounds, 369 U.S. 45, 82 S. Ct. 552, 7 L. Ed. 2d 562 (1962).

There is no intimation in the Alaska Statehood Act of an intent that any United States administration under the

commercial fishery laws be carried out after the state had been certified as capable of its own management. *Metlakatla Indian Community, Annette Island Reserve v. Egan*, Sup. Ct. Op. No. 42 (File Nos. 21 — 23), 362 P.2d 901 (1961), vacated and remanded on other grounds, 369 U.S. 45, 82 S. Ct. 552, 7 L. Ed. 2d 562 (1962).

Upon Alaska's admission on January 3, 1959, the Alaska game laws and acts regulating commercial fisheries as "territorial laws," continued in force, but were modified by Ordinance No. 3 of the state constitution prohibiting the use of fish traps for the taking of salmon for

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ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

EXECUTIVE SECRETARY
BILLY G. BERRIER

December 5, 1978

M E M O R A N D U M

SUBJECT: Uniform Probate Code - Effect of Homicide
TO: Representative Mike Miller, Chairman
Alaska Legislative Council
FROM: John W. Abbott, Chairman
Code Revision Commission

Pursuant to the authority granted in AS 24.20.075(c), the Code Revision Commission has determined that the Alaska version of the Uniform Probate Code is not consistent with the official Uniform Act in a portion relating to homicide. The commission has determined that in order to make the code consistent with the most recent version adopted by the National Conference of Commissioners on Uniform State Laws, the attached bill should be introduced at the next session of the legislature. The bill would amend AS 13.11.305(b), relating to the effect of homicide on the succession of a decedent's assets, by making the section applicable to all multiple party accounts in any financial institution. The section does not purport to create any forms of property ownership new to Alaska, such as a joint tenancy; it serves only to eliminate whatever survivorship rights, if any, regardless of where or how created, a killer might have in his victim's property.

JWA/bb/jms

Attachment

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Chapter 67. Violent Crimes Compensation Board.

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| Section | Section |
| 10. Purpose | 120. Emergency compensation |
| 20. Criminal injuries compensation board | 130. Limitations on awarding compensation |
| 40. Action on application; hearings | 165. Distribution of money received as a result of the commission of crime |
| 50. Attorney fees | 170. Reports |
| 80. Awarding compensation | 175. Duty to display information |
| 90. Recovery from collateral source | |
| 110. Nature of the compensation | |

Sec. 18.67.010. Purpose. It is the purpose of this chapter to facilitate and permit the payment of compensation to innocent persons injured, to dependents of persons killed, and to certain other persons who by virtue of their relationship to the victim of a crime incur actual and reasonable expense as a result of certain serious crimes or in attempts to prevent the commission of crime or to apprehend suspected criminals. (§ 1 ch 203 SLA 1972; am § 1 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment effective June 5, 1975, deleted "and" preceding "to dependents" and inserted the language beginning "and to certain other persons" and ending "reasonable expense."

Sec. 18.67.020. Criminal injuries compensation board. (a) There is the Violent Crimes Compensation Board in the Department of Public Safety composed of three members to be appointed by the governor. One of the members shall be designated as chairman by the governor. At least one member shall be a medical or osteopathic physician licensed to practice in this state and one member shall be an attorney licensed to practice in this state. (am § 2 ch 132 SLA 1975; am § 1 ch 87 SLA 1978)

Effect of amendments. — The 1975 amendment, effective June 5, 1975, added "and one member shall be an attorney licensed to practice in this state" to the end of the third sentence of subsection (a). The 1978 amendment substituted "Department of Public Safety" for "Department of Health and Social Services" in the first sentence of subsection (a). As the rest of the section was not affected by the amendments, it is not set out.

Sec. 18.67.040. Action on application; hearings. (a) Upon application made under the provisions of this chapter, the board shall consider the application and rule on it. The board may, upon its own motion, order a hearing, specifying the time and place it is to be held; if a hearing is ordered, the board shall give notice to the applicant. If, after consideration without a hearing, the decision is unfavorable to the applicant, in whole or in part, the board shall furnish him a written statement of the reason for the ruling. If, within 30 days after receipt of this statement, the applicant requests a hearing on his application, the board shall specify a time and place for a hearing and shall give

notice to specified

Effect of amendment, subsection (a)

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Effect of amendment, inserted "or d been responsi subsection (a)

notice to the applicant. If no request for a hearing is made within the specified time, the decision of the board is final. (am § 3 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, rewrote subsection (a). As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.050. Attorney fees. The board may, as part of an order entered under this chapter, determine and allow reasonable attorney fees, which may not exceed 25 per cent of the first \$1,000 amount awarded as compensation, 15 per cent of the next \$9,000 amount awarded as compensation, and 7.5 per cent of the amount awarded as compensation over \$10,000 under § 70 of this chapter, to be paid in addition to the amount of the compensation, to the attorney representing the applicant. It is unlawful for the attorney to ask for, contract for, charge, demand, collect or receive a larger sum than the amount allowed by the board in the award of attorney fees. An attorney who violates this section shall forfeit any fee awarded and shall repay the state the fee awarded under this section. (§ 1 ch 203 SLA 1972; *am.* § 4 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, substituted "25 per cent" for "15 per cent" in the first sentence, and inserted "first \$1,000" and the language beginning "15 per cent" and ending "over \$10,000" in that sentence, deleted "out of but not" following "to be paid" in that sentence, inserted "charge, demand, collect" and "by the board" in the second sentence, added "of attorney fees" to the end of that sentence, and added the third sentence.

Sec. 18.67.080. Awarding compensation. (a) In a case in which a person is injured or killed by an incident specified in § 100(1) of this chapter, or by the act of any other person which is within the description of offenses listed in § 100(2) of this chapter, the board may order the payment of compensation in accordance with the provisions of this chapter:

- (1) to or for the benefit of the injured person;
- (2) in the case of personal injury or death of the victim, to a person responsible or who had been responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury or death; or
- (3) in the case of death of the victim, to or for the benefit of one or more of the dependents of the victim.

(am § 5 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, inserted "or death" twice and "or who had been responsible" once in paragraph (2) of subsection (a). As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.090. Recovery from collateral source. (a) Up to the maximum set in § 130(c) of this chapter, the board may award compensation for losses and expenses allowable under § 110 of this chapter for which the applicant is not compensated by the offender or a person on behalf of the offender, or by the United States, a state, or any of its subdivisions or agencies, or a private source or emergency awards under § 120 of this chapter, for injury or death compensable under this chapter.

(b) If compensation is awarded under this chapter and the person receiving it also receives a collateral sum under (a) of this section which has not been deducted from it, the board may require that he refund either the amount of the collateral sum or the amount of compensation paid to him under this chapter, whichever is less.

(c) Notwithstanding the provisions of (a) and (b) of this section, in the case of the death of a victim, the value of a life insurance policy may not be considered a collateral sum that may be deducted under this section. (§ 1 ch 203 SLA 1972; am § 6 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, substituted the language beginning "Up to the maximum set in § 130(c)" and ending "is not compensated by" for "The board shall deduct from compensation awarded under this chapter the payments received from" at the beginning of subsection (a), substituted "by" for "from" preceding "the

United States" and deleted "from" preceding "a person on behalf of the offender" in that subsection, substituted "the board may require that he refund either the amount of the collateral sum" for "he shall refund to the board the lesser of the sums" in subsection (b), added "whichever is less" to the end of that subsection, and added subsection (c).

Sec. 18.67.110. Nature of the compensation. The board may order the payment of compensation under this chapter for

(2) loss of earning power as a result of total or partial incapacity of the victim, and reasonable expenses of job retraining of or similar employment-oriented rehabilitative services for the victim; (am § 7 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, added the language beginning "and reasonable expenses" to the end of paragraph (2).

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.120. Emergency compensation. It it appears to the board that, prior to taking action on an application, the claim is one for which compensation is probable, and undue hardship will result to the applicant if immediate payment is not made, the board may make an emergency award of compensation to the applicant pending a final decision in the case. However,

(1) the amount of the emergency compensation may not exceed \$1,500; (am § 8 ch 132 SLA 1975)

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Effect of amendment. — The 1975 amendment, effective June 5, 1975, substituted "\$1,500" for "\$500" at the end of paragraph (1). As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.130. Limitations on awarding compensation.

(b) No compensation may be awarded if the victim

(1) is a relative of the offender;

(2) is, at the time of the personal injury or at the time of the injury which results in the death of the victim living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender or with a member of the offender's family;

(3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or

(4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to injure or kill the victim.

(c) No compensation may be awarded under this chapter in an amount in excess of \$25,000 per victim per incident. However, in the case of the death of a victim who has more than one dependent eligible for compensation, the total compensation which may be awarded as a result of that death may not exceed \$40,000. The board may prorate the total awarded among those dependents according to relative need. All payments shall be made in a lump sum.

(am §§ 9, 10 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, in subsection (b), inserted "at the time of the injury which results in the" in paragraph (2), substituted "the same" and "the offender's" for "his" and "offender" for "person" in that paragraph, substituted "injure or kill" for "run" in paragraph (4), and deleted "down" following "victim" at the end of that paragraph. The amendment also, in subsection (c), divided the former first sentence into the present first and fourth sentences by adding "\$25,000 per victim per incident" to the end of the present first sentence, adding the present second and third sentences, and substituting "All" for "\$10,000 and all" at the beginning of the present fourth sentence. As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.165. Distribution of money received as a result of the commission of crime. (a) Every person contracting with a person, or the representative or assignee of a person, accused of a crime in this state, with respect to the reenactment of that crime, by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of that person's thoughts, feelings, opinions or emotions regarding the crime, shall pay to the board any money which would otherwise, by terms of the contract, be owing to the person accused or his representatives. The board shall deposit the money in an escrow account for the benefit of any victim of a crime committed by the person and payable to a victim, provided that

the person accused is convicted of the crime and the victim, within five years of the date of the crime, brings a civil action in a court of competent jurisdiction and recovers a money judgment against the person accused or his representatives.

(b) Upon disposition of charges favorable to a person accused of committing a crime, or upon a showing by a person that five years have elapsed from the establishment of the escrow account and no actions are pending against that person under this section, the board shall immediately pay any money in the escrow account to that person.

(c) If an escrow account is established under this section, no otherwise applicable statute of limitation on the time within which civil action may be brought bars action by a victim of a crime committed by the person accused or convicted of the crime as to a claim resulting from the crime until five years have elapsed from the time the escrow account was established.

(d) The board shall make payments from an escrow account to any person accused of crime upon a court order after a showing by that person that

(1) the money will be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against that person, including the appeals process; and

(2) the person has insufficient assets, other than funds in the escrow account and assets which could be claimed as exempt from execution under state law, to provide for payment of expenses of legal representation.

(e) Any action taken by a person convicted of a crime to defeat the purpose of this section is void as against the public policy of this state. (§ 2 ch 87 SLA 1978)

Sec. 18.67.170. Reports. The board shall prepare and transmit to the governor and legislature annually a report of its activities under this chapter including a brief description of the facts in each case and the amount of compensation awarded. (§ 1 ch 203 SLA 1972; am § 1 ch 1 SLA 1977)

Effect of amendment. — The 1977 amendment deleted "the name of each applicant" following "under this chapter including" and deleted a comma following "facts in each case."

Legislative committee report. — For report on ch. 1, SLA 1977 (HB 64), see 1977 House Journal, p. 60.

Sec. 18.67.175. Duty to display information. (a) Every hospital licensed by this state shall display prominently in its emergency room, main entrance, and business office posters notifying the public of the existence and general provisions of this chapter. The board may set standards for the location of this display and shall provide posters and general information regarding the provisions of this chapter to each hospital and to each physician licensed to practice medicine in the state.

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(b) Every law enforcement agency in the state shall inform victims of violent crimes, or their surviving dependents, of the provisions of this chapter and shall provide application forms to the victims, or their dependents, who desire to seek compensation under this chapter. The board shall provide application forms, all other documents and general information which law enforcement agencies may require to comply with this subsection. (§ 11 ch 132 SLA 1975)

Effective date. — Section 12, ch. 132, June 5, 1975, in accordance with AS SLA 1975, makes this section effective on 01.10.07(c).

Chapter 70. Fire Protection.

Article 1. Prevention and Investigation.

| Section | Section |
|---|--------------------------------|
| 75. Authority of municipal fire department officers and their personnel | 90. Enforcement of regulations |
| | 95. Smoke detection devices |

Sec. 18.70.010. General function of Department of Public Safety with respect to fire protection.

Common-law duty to take action concerning fire hazards after inspection. — Whether or not the state had a statutory duty to take action concerning hazards discovered at a hotel, where the state fire officials undertook to inspect a hotel for fire hazards, and in doing so they discovered a series of conditions constituting an "extreme life hazard," and there was evidence that they discussed some of these hazards with the manager of the hotel, promised him a more formal notification of fire code violations, and took no further action, the state fire officials had a duty to proceed further with regard to the recognized hazards, since the state assumed a common-law duty, owed to the victims of the fire, by its affirmative conduct. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Where the state had not undertaken to inspect a hotel and eliminate the fire

hazards, it did not assume any common-law duty. *State v. Jennings*, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2423), 555 P.2d 248 (1976).

Duty to exercise reasonable care in conducting inspections. — Once an inspection has been undertaken the state has a further duty to exercise reasonable care in conducting fire safety inspections, and liability will attach where there is a negligent failure to discover fire hazards which would be brought to light by an inspection conducted with ordinary care. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

What constitutes reasonable care will vary with the circumstances and hazards involved. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Sec. 18.70.020. Duties of Department of Public Safety.

Common-law duty to take action concerning fire hazards after inspection. Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).
— See note to AS 18.70.010. *Adams v. State*,

Sec. 18.70.050. Power of department to inspect buildings.

Purpose of fire inspection is to protect life and property from fire. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

exclusion shall have no effect on eligibility to receive or expend federal or state grants. (§ 1 ch 178 SLA 1972)

Sec. 18.65.290. Definitions. In §§ 130 — 290 of this chapter

(1) "council" means the Alaska Police Standards Council;

(2) "police officer" means a full-time employee of a police department which is a part of or administered by the state or a political subdivision of the state participating in a program established under §§ 130 — 290 of this chapter, who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of this state. (§ 1 ch 178 SLA 1972)

Article 3. Identification Cards.

Section

310. Identification cards

Sec. 18.65.310. Identification cards. (a) Upon payment of a \$5 fee, the Department of Public Safety shall issue a card identical to the motor vehicle operator's license provided for in AS 28.15.080, except that the card shall be of a different color and shall state in bold type letters across the face of it that it is for identification purposes only.

(b) A person may obtain an identification card provided for in (a) of this section by applying to the department on forms and in the manner prescribed by the department. (§ 1 ch 37 SLA 1973)

Revisor's note (1973). — In ch. 37, SLA designated AS 18.65.130, and Article 3 1973, AS 18.65.310 was incorrectly designated Article 2.

Chapter 67. Violent Crimes Compensation Board.

Section

- 10. Purpose
- 20. Criminal injuries compensation board
- 30. Application for compensation
- 40. Hearings
- 50. Attorney fees
- 60. Regulations
- 70. Standards for compensation
- 80. Awarding compensation
- 90. Recovery from collateral source
- 100. Incidents and offenses to which chapter applies

Section

- 110. Nature of the compensation
- 120. Emergency compensation
- 130. Limitations on awarding compensation.
- 140. Recovery from offender
- 150. False claim
- 160. Survival and abatement
- 170. Reports
- 180. Definitions

Revisor's note (1972). — In ch. 203, SLA 1972, AS 18.67.090 — 18.67.180 were designated 18.67.085 — 18.67.140.

Legislative committee report. — For report on ch. 203, SLA 1972 (SB 28 am), see 1972 House Journal, p. 343.

Sec. 18.67.010. Purpose. It is the purpose of this chapter to facilitate and permit the payment of compensation to innocent persons

injured and to dependents of persons killed as a result of certain serious crimes or in attempts to prevent the commission of crime or to apprehend suspected criminals. (§ 1 ch 203 SLA 1972)

Sec. 18.67.020. Crimi. injuries compensation board. (a) There is the Violent Crimes Compensation Board in the Department of Health and Social Services composed of three members to be appointed by the governor. One of the members shall be designated as chairman by the governor. At least one member shall be a medical or osteopathic physician licensed to practice in this state.

(b) The term of office of each member of the board is three years, except that of the members first appointed one shall be appointed for a term of three years, one for a term of two years, and one for a term of one year. All vacancies, except through the expiration of term, shall be filled for the unexpired term only.

(c) Each member of the board is eligible for reappointment and serves at the pleasure of the governor.

(d) Each member of the board is eligible for reappointment and any member of the board may be removed by the governor for inefficiency, neglect of duty or malfeasance in office after due notice and hearing.

(e) Members of the board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards.

(f) The board may appoint one or more hearing officers, who must be licensed to practice law in the state, to conduct hearings and take testimony in proceedings under this chapter, but final determinations of any matter shall be only by the board. A hearing officer acting under this section shall report his findings of fact and conclusions of law to the board, together with the reasons for the findings and conclusions. The board shall act only after consideration of the report and other evidence that it considers appropriate.

(g) The board may appoint and fix the duties of personnel necessary for carrying out its functions under this chapter. (§ 1 ch 203 SLA 1972)

Sec. 18.67.030. Application for compensation. (a) A person who may be eligible for compensation under this chapter may make application to the board. In a case in which the person entitled to make application is a minor, the application may be made on his behalf by his parent or guardian. In a case in which the person entitled to make application is mentally incompetent, the application may be made on his behalf by his parent, guardian or other individual authorized to administer his estate.

(b) In order to be eligible for compensation under this chapter, the applicant shall, before a hearing on an application under this chapter, submit reports, if reasonably available, from all physicians or surgeons who have treated or examined the victim in relation to the injury for which compensation is claimed at the time of or subsequent to the victim's injury or death. If, in the opinion of the board, reports on the previous medical history of the victim, a report on the examination of

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the injured victim, or a report on the cause of death of the victim by an impartial medical expert would be of material aid to its determination, the board shall order the reports and examination. (§ 1 ch 203 SLA 1972)

Sec. 18.67.040. Hearings. (a) Upon application made under the provisions of this chapter, the board shall fix a time and place for a hearing and shall give notice to the applicant.

(b) For the purpose of carrying out the provisions of this chapter, the board or its hearing officer may hold the hearings, sit and act at the times and places, and take the testimony that it or he considers advisable. The board or its hearing officer may administer oaths or affirmations to witnesses. The board has full powers of subpoena and compulsion of attendance of witnesses and production of documents, but no subpoena shall be issued except under the signature of a member of the board. Application to a court for aid in enforcing the subpoena may be made in the name of the board only by a board member. Subpoenas are served by any person designated by the board.

(c) The applicant and any other person having a substantial interest in a proceeding may appear and be heard, produce evidence and cross-examine witnesses in person or by his attorney. The board or its hearing officer also may hear other persons who in its or his judgment may have relevant evidence to submit.

(d) Admissibility of evidence is governed by the Administrative Procedure Act (AS 44.62).

(e) If a person has been convicted of an offense with respect to an act on which a claim under this chapter is based, proof of that conviction shall be taken as conclusive evidence that the offense has been committed, unless an appeal or a proceeding with regard to it is pending.

(f) Orders and decisions of the board shall be final. (§ 1 ch 203 SLA 1972)

Sec. 18.67.050. Attorney fees. The board may, as part of an order entered under this chapter, determine and allow reasonable attorney fees, which may not exceed 15 per cent of the amount awarded as compensation under § 70 of this chapter, to be paid out of but not in addition to the amount of the compensation, to the attorney representing the applicant. It is unlawful for the attorney to ask for, contract for, or receive a larger sum than the amount allowed in the award. (§ 1 ch 203 SLA 1972)

Sec. 18.67.060. Regulations. In the performance of its functions, the board is authorized to make, rescind and amend regulations prescribing the procedures to be followed in the filing of applications and in proceedings under this chapter, and relating to other matters the board considers appropriate. (§ 1 ch 203 SLA 1972)

Sec. 18.67.070. Standards for compensation. For the purpose of determining the amount of compensation payable under this chapter, the board shall, insofar as practicable, formulate standards for uniform application of this chapter and take into consideration rates and amounts of compensation payable for injuries and death under other laws of the state and of the United States and the availability of funds appropriated for the purposes of this chapter. (§ 1 ch 203 SLA 1972)

Sec. 18.67.080. Awarding compensation. (a) In a case in which a person is injured or killed by an incident specified in § 100(1) of this chapter, or by the act of any other person which is within the description of offenses listed in § 100(2) of this chapter, the board may order the payment of compensation in accordance with the provisions of this chapter:

- (1) to or for the benefit of the injured person;
- (2) in the case of personal injury of the victim, to a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury; or
- (3) in the case of death of the victim, to or for the benefit of one or more of the dependents of the victim.

(b) For the purposes of this chapter, a person is considered to have intended an act notwithstanding that by reason of age, insanity, drunkenness, or otherwise, he was legally incapable of forming a criminal intent.

(c) In determining whether to make an order under this section, the board shall consider all circumstances determined to be relevant, including provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, his need for financial aid, and any other relevant matters.

(d) An order may be made under this section whether or not a person is prosecuted or convicted of an offense arising out of the act which caused the injury or death involved in the application. Upon application made by an appropriate prosecuting authority, the board may suspend proceedings under this chapter for a period it considers appropriate on the ground that a prosecution for an offense arising out of the act which caused the injury or death involved in the application has been commenced or is imminent. (§ 1 ch 203 SLA 1972)

Sec. 18.67.090. Recovery from collateral source. (a) The board shall deduct from compensation awarded under this chapter the payments received from the offender or from a person on behalf of the offender, or from the United States, a state, or any of its subdivisions or agencies, or a private source or emergency awards under § 120 of this chapter, for injury or death compensable under this chapter.

(b) If compensation is awarded under this chapter and the person receiving it also receives a collateral sum under (a) of this section

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which has not been deducted from it, he shall refund to the board the lesser of the sums or the amount of compensation paid to him under this chapter. (§ 1 ch 203 SLA 1972)

Revisor's note (1972). — In ch. 203, SLA 1972, AS 18.67.090 — 18.67.180 were designated 18.67.085 — 18.67.140.

Sec. 18.67.100. Incidents and offenses to which chapter applies. The board may order the payment of compensation in accordance with the provisions of this chapter for personal injury or death which resulted from

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of a crime, or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: mayhem; indecent act with children; kidnapping; murder; manslaughter; rape; assault with intent to kill, rob, rape, or poison; assault with intent to maim; assault with a dangerous weapon; threats to do bodily harm; or lewd, indecent, or obscene acts. (§ 1 ch 203 SLA 1972)

Sec. 18.67.110. Nature of the compensation. The board may order the payment of compensation under this chapter for

(1) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(2) loss of earning power as a result of total or partial incapacity of the victim;

(3) pecuniary loss to the dependents of the deceased victim; and

(4) any other loss resulting from the personal injury or death of the victim which the board determines to be reasonable. (§ 1 ch 203 SLA 1972)

Sec. 18.67.120. Emergency compensation. If it appears to the board that, prior to taking action on an application, the claim is one for which compensation is probable, and undue hardship will result to the applicant if immediate payment is not made, the board may make an emergency award of compensation to the applicant pending a final decision in the case. However,

(1) the amount of the emergency compensation may not exceed \$500;

(2) the amount of the emergency compensation shall be deducted from the final compensation made to the applicant;

(3) the excess of the amount of the emergency compensation over the final amount shall be repaid by the applicant to the board. (§ 1 ch 203 SLA 1972)

Sec. 18.67.130. Limitations on awarding compensation. (a) No order for the payment of compensation may be made under § 80 of this chapter unless the application has been made within two years after

the date of the personal injury or death, and the personal injury or death was the result of an incident or offense listed in § 100 of this chapter which had been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within five days of the time when a report could reasonably have been made.

(b) No compensation may be awarded if the victim

(1) is a relative of the offender;

(2) is at the time of the personal injury or death of the victim living with the offender as a member of his family or household, or maintaining a sexual relationship, whether illicit or not, with the person or with a member of his family;

(3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or

(4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to run the victim down.

(c) No compensation may be awarded under this chapter in an amount in excess of \$10,000 and all payments shall be made in a lump sum.

(d) Orders for payment of compensation under this chapter may be made only as to injuries or death resulting from incidents or offenses occurring on and after July 1, 1971. (§ 1 ch 203 SLA 1972)

Sec. 18.67.140. Recovery from offender. When an order for the payment of compensation for personal injury or death is made under this chapter, the board, upon payment of the amount of the order, is subrogated to the cause of action of the applicant against the person responsible for the injury or death and is entitled to bring an action against the person for the amount of the damages sustained by the applicant. If an amount greater than that paid under the order is recovered and collected in the action, the board shall pay the balance to the applicant. (§ 1 ch 203 SLA 1972)

Sec. 18.67.150. False claim. A person who knowingly makes a false claim under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$500, or by imprisonment for not more than one year, or by both, and shall forfeit any benefit received and shall repay the state for payment of compensation made under this chapter. (§ 1 ch 203 SLA 1972)

Sec. 18.67.160. Survival and abatement. The rights to compensation created under this chapter are personal and do not survive the death of a victim or dependent entitled to them, except that if the death occurs after an application for compensation has been filed with the Violent Crimes Compensation Board, the proceeding does not abate, but may be continued by the legal representative of the decedent's estate. (§ 1 ch 203 SLA 1972)

Sec. 18.67.170. Reports. The board shall prepare and transmit to the governor and legislature annually a report of its activities under this chapter including the name of each applicant, a brief description of the facts in each case, and the amount of compensation awarded. (§ 1 ch 203 SLA 1972)

Sec. 18.67.180. Definitions. In this chapter

- (1) "board" means the Violent Crimes Compensation Board;
- (2) "dependent" means a relative of a deceased victim, who was dependent upon the victim's income at the time of his death; children of a victim born after a victim's death are included;
- (3) "personal injury" means actual bodily harm;
- (4) "relative" means spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parents;
- (5) "victim" means a person who is injured or killed by an incident specified in § 100 of this chapter. (§ 1 ch 203 SLA 1972)

Chapter 70. Fire Protection.

Article

- 1. Prevention and Investigation (§§ 18.70.010 — 18.70.100)
- 2. Fire Escapes (Repealed)
- 3. Mutual Fire Aid Agreements (§§ 18.70.150 — 18.70.160)
- 4. General Provisions (§ 18.70.300)

Article 1. Prevention and Investigation.

Section

- 10. General function of Department of Public Safety with respect to fire protection
- 20. Duties of Department of Public Safety
- 30. Investigation of fires resulting from crime
- 40. Cooperation with fire insurance companies
- 50. Power of department to inspect buildings

Section

- 60. Removal of property from fire
- 70. Abatement of fire hazards
- 80. Regulations
- 82. Remote housing facilities
- 84. Standard fire hose and hydrant threads required
- 85. Sale of nonstandard equipment
- 90. Enforcement of regulations
- 100. Violation

Sec. 18.70.010. General function of Department of Public Safety with respect to fire protection. The Department of Public Safety shall foster, promote, regulate, and develop ways and means of protecting life and property against fire, explosion, and panic. (§ 1 ch 66 SLA 1955)

Legislative intent. — The legislature did not by enacting this section and AS 18.70.020, AS 18.70.050, AS 18.70.070, and AS 18.70.080 intend to impose a duty on state personnel in connection with enforcement of regulations promulgated pursuant thereto in favor of those injured

by preventable violations. *Adams v. Big Land Dev. Corp.*, Superior Court, 3rd Jud. Dist., C.A. No. 70-326 (1973).

Safety and fire inspectors not liable for failure to enforce law. — Public policy precludes holding public officers such as safety and fire inspectors liable for

Monday, April 9, 1979

Chairman Charlie Parr called the meeting to order at 3:45 with all Committee members present.

The subject of the meeting was Senate Bill 77, Compensation for Criminal Injuries.

Jim McKenzie, drafter of the bill appeared before the committee to explain that the intent of the legislation was to add aggravated assault to the crimes compensable through the violent crimes compensation board. He further stated that some of the language in the bill was added to keep in line with the new criminal code, which will go into effect in January, 1980.

Nola Capp, the administrator of the Violent Crimes Compensation Board appeared before the committee. She explained to the Judiciary members that the board wanted to include aggravated assault among the crimes compensable by the board. Apparently, the board is aware of many cases of persons physically harmed by another person without a weapon. Under current law, the Violent Crimes Compensation Board cannot act unless a weapon is used.

Chairman Parr asked the Committees pleasure. Rep. O'Connell moved the committee adopt the McKenzie Amendment, there being no objection, it was so ordered. Rep. Brown moved the committee report out CS for SB 77, there being no objection, CSSB 77 was reported out of Judiciary Committee.

A M E N D M E N T

Offered in the SENATE

By the Judiciary Committee

TO: SENATE BILL NO. 77

Page 2, lines 4 - 10:

Delete all material and insert the following:

"(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: murder in any degree, manslaughter, criminally negligent homicide, assault in the first or second degree, kidnapping, sexual assault in any degree, sexual abuse of a minor, contributing to the delinquency of a minor under AS 11.51.130(a)(4), threats to do bodily harm, or lewd, indecent, or obscene acts."

STATE OF ALASKA
THE LEGISLATURE

POUCH STATE CAPITOL
JUNEAU ALASKA 99801
907-465-2811

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 31, 1979

SUBJECT: Proposed amendment to Senate Bill No. 77
TO: Members of the Senate Judiciary Committee
FROM: *JAMc* James A. McKenzie, Legislative Counsel

The purpose of Senate Bill No. 77 is to allow the Violent Crimes Compensation Board to compensate victims of aggravated assault. This is provided for in sec. 1 by adding aggravated assault to the list of offenses for which compensation may be paid. This list of offenses, however, will be obsolete when the new criminal code takes effect on January 1, 1980. Section 2 of the bill is an attempt to translate the list of offenses, including aggravated assault, into the language of the new criminal code. The difficulty is in translating the terms "threats to do bodily harm" and "lewd, indecent, or obscene acts." (Page 2, lines 22-23). Threats to do bodily harm and lewd, indecent, or obscene acts are not, as such, crimes under the present criminal code or under the new criminal code. I had thought it best to eliminate these general terms and replace them with specific crimes under the new criminal code. Upon reviewing the bill, however, I believe that it is better to leave these terms as they are. There are a number of crimes under the new criminal code which could, in some circumstances, involve threats to do bodily harm or lewd, indecent, or obscene acts. For example, harrassment under AS 11.61.120(a)(4) involves anonymous phone calls, obscene phone calls, and phone calls that threaten physical injury. If this were added to the list, it would read, "harrassment under AS 11.61.120(a)(4) which involves an obscene phone call or a phone call that threatens physical injury."

Use of the general terms in the existing law eliminates the complexity and confusion of listing, with appropriate qualifications, every crime which might come under those terms and helps to insure that new crimes coming under those terms will be covered. The proposed amendment translates the specific crimes listed in sec. 1 into their counterparts under the new criminal code and retains the general terms "threats to do bodily harm" and "lewd, indecent, or obscene acts."

JAMcK:nem

SB 77 JUDICIARY BY REQUEST.....RELATING TO COMPENSATION FOR
CRIMINAL INJURIES.

THE PURPOSE OF THIS BILL IS TO ADD " AGGRAVATED ASSAULT" TO THE
CRIMES WHICH A PERSON MAY APPLY FOR COMPENSATION FROM THE VIOLENT
CRIMES COMPENSATION BOARD.

SECTION 1. Adds "aggravated assault" to the current offenses
under which a person may apply for compensation.

SECTIONS 2-6 These sections have been rewritten and amended in order
to include the new term for aggravated assault and to
conform to internal cross references under the
new criminal code, which will be effective January,
1980.

*NOTE: Only section 1 will take effect immediately, all other
sections will take effect January 1980.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

VIOLENT CRIMES COMPENSATION BOARD

POUCH N
JUNEAU, ALASKA 99811

January 30, 1979

The Honorable Robert H. Ziegler, Sr.
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

The Violent Crimes Compensation Board requests passage of SB 77 amending Section 100 of the statute to include Aggravated Assault.

Five claims were submitted in FY78 which had to be denied because the injuries did not result from a crime encompassed under Section 100. While the number does not seem large, the Board believes innocent victims should be compensated for medical expenses and loss of earnings due to injuries received at the hands of assailants.

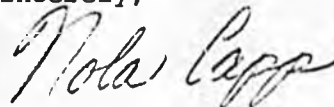
For example, one claimant was at home when two men forced their way into the apartment and beat and kicked the claimant severely. The claimant incurred fractured nasal bones and multiple abrasions and contusions about the head, neck, arms and upper chest. The claimant's medical expenses were \$2,157.00 of which the insurance company paid \$1,561.50, leaving the claimant owing a balance of \$645.50. Since the claimant was in the hospital eight days and unable to work for a period of three weeks total, loss of earnings were incurred in the amount of \$880.55.

As the amount of compensation for each of the claims would be approximately \$2,000.00, the Board does not feel there would be a fiscal impact on the program over and above the appropriated funds.

The Crime of Aggravated Assault appears to be within the intent of the original statute therefore the Violent Crimes Compensation Board supports this bill.

As a Board meeting was previously scheduled in Anchorage on February 1, 1979, it is impossible to personally testify at the hearing. However, your thoughtful consideration will be appreciated.

Sincerely,



(Mrs.) Nola K. Capp
Administrator

NKC:mng

MEMORANDUM

State of Alaska

TO: Jos Mapranath
Budget Analyst
Department of Public Safety

DATE: January 29, 1979

FILE NO:

TELEPHONE NO:

FROM: Nola K. Capp, Administrator *NC*
Violent Crimes Compensation Board

SUBJECT: Senate Bill 77

Based on the historical data at our disposal, we do not feel there will be a fiscal impact over and above the appropriated funds.

The Honorable Robert Ziegler
Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

The Violent Crimes Compensation Board, at their November meeting, requested I write asking your assistance with a problem in the statute that has arisen several times during the past year.

Several claims have been submitted where the claimant was kicked and beaten causing severe injuries. The Board has had to deny the claims because Aggravated Assault doesn't qualify as a compensable crime under Section 100 of the statute.

The Board would like your assistance in amending Section 100 of the statute to include Aggravated Assault as a qualifying crime so innocent victims of brutal attacks can be compensated.

The Board does not feel this would have a great fiscal impact on the program as claims of this nature do not request large sums of money so no fiscal note would be required.

Your assistance in this matter and your support of the program is appreciated.

Sincerely,

Nola K. Capp
(Mrs.) Nola K. Capp
Administrator

NKC:mng

I. REQUEST
 Bill/Resolution No. SB77
 Title An act relating to compensation for criminal injuries.....
 Requested by Legislative Finance Date 1-29-79

II. FISCAL DETAIL
 Agency Affected Department of Public Safety
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Violent Crime Compensation Board/Due Process
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 79 | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | -0- | -0- | -0- | -0- | -0- |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Aggravated assault claims usually involve no large sum of money and the program manager estimates no fiscal impact at all.

IV. DATE 1/29/79 PREPARED BY Jos Mapranath, Budget Analyst
 AGENCY Department of Public Safety
 PHONE 465-4368
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

SB

99

SB 99 am

Amendment line 18

at a law school accredited or
approved by the Council of Legal
Education of the American Bar Association
or the Association of American Law
Schools.

P. O. Box 2007
Kodiak, Alaska 99615
October 3, 1978

Hon. Clem Tillion
State Senator
Homer, Alaska 99603

Re: Law Clerkship
AS 08.08.207

Dear Clem:

I note in the Session Laws that the last Legislature has amended AS 08.08.207(b) thru (i) by Ch. 119 to have the law clerk program initiated in 1976 administered by the University of Alaska instead of by the Alaska Supreme Court.

Enclosed is a copy of my request to the University for the necessary registration forms. However, I foresee some complications due to the wording of AS 08.08.207(a) which remains unchanged from the 1976 version. It reads in pertinent part:

"Every person who desires subsequently to qualify as a general applicant for admission to the Alaska Bar without having graduated from an approved law school ... shall present satisfactory proof that he has been granted a bachelor's degree (other than bachelor of laws) ..." (Emphasis added)

You are probably aware that the study of law on the European continent differs substantially from the American method. Instead of entering law school after having obtained an undergraduate degree in another subject, there one studies law right out of a college-preparatory high school and after having obtained a law degree, which Americans would consider undergraduate, serves a three-year internship in various branches of the justice system before being admitted to the practice of law. I have this (undergraduate) bachelor of law degree, but did not serve the European internship. I enclose a list of my education and experience which, I feel, should be the equivalent of any internship I could or would have served in Europe.

It appears that AS 08.08.207(a), as presently worded, would disqualify any applicant, such as myself, who has graduated from a non-accredited (by the American Bar Association) law school with a bachelor of law, but would otherwise be eligible. To be logical and inclusive, the wording of Sec. 207(a) should follow that of Sec. 205 and should read as to the part in parenthesis, "other than bachelor of laws from an accredited law school."

I brought this discrepancy to the attention of the Alaska Court System in 1976 and was repeatedly assured by then Chief Justice Boochever that the Supreme Court was aware of this complication and that the Justices would give serious consideration to my case once they had issued the regulations for clerkship. As you know, such regulations

Hon. Clem Tillion

- 2 -

October 3, 1978

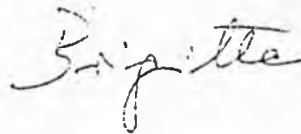
were never perfected, and now the whole program is in the hands of the University which may be more reluctant than the Supreme Court to interpret a law other than in its most narrow, literal sense.

I am writing to request your assistance in initiating an amendment to AS 08.08.207(a) so that it conforms to AS 08.08.205. This would not in any way change the intent of the Legislature as expressed in Sec. 205 or permit anyone not qualified to apply for admission to the Bar, but would clarify my situation and perhaps that of others similarly situated.

Thank you very much for your attention and for any assistance you may be able to give me.

With best personal regards to you and Diana,

Sincerely,

A handwritten signature in cursive script, appearing to read "Brigitte".

encls.

cc: Judge Roy H. Madsen